

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4792 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

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MOHIUDDIN ABDULHAI CHADRAWALA

Versus

SECRETARY TO GOVT.OF GUJARAT

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Appearance:

MR PK JANI for Petitioners

Ms MANISHA LAVKUMAR, AGP for Respondent Nos. 1,2 & 5

RULE SERVED for Respondent No. 3

MR AD OZA for Respondent No. 4

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 09/08/1999

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioners have challenged the inaction on the part of respondent No. 4, Administrative Officer of Ahmedabad Municipal School Board, Ahmedabad in not absorbing the petitioners in the primary schools being run by Ahmedabad Municipal School Board.

2. The petitioners were serving as teachers in the Anjuman-E-Islam English School (Primary Section) for about 15 years. When the said school came to be closed down, the services of the petitioners were terminated as per the order dated 22.2.1986 (Annexure "A") passed by the Honorary Secretary of the school management. The petitioners thereafter approached the authorities in the Education Department of the State Government and it appears that the Director of Primary and Adult Education instructed respondent No. 4 herein by a letter dated 24.9.1984 (Annexure "B") to absorb the petitioners in the primary schools being run by the Ahmedabad Municipal School Board. The petitioners' grievance is that inspite of the aforesaid instructions, respondent No. 4 is not absorbing the petitioners. Reference is also made to two teachers viz. Shri Chimanlal Vyas and Smt. Padmaben whose services were terminated by the concerned institutions where they were serving and thereafter the State Government had directed respondent No. 4 to absorb the said teachers. According to the petitioners, those teachers were absorbed by the Ahmedabad Municipal School Board.

3. The petition is resisted by respondent No. 4 through his affidavit in reply dated 23.6.1999. It is contended that the petitioners were teachers in private primary schools and that upon closure of such schools, Ahmedabad Municipal School Board is not required to absorb the teachers whose services are terminated by the private school management. The school in question was not an aided institution and there is no law or rule which empowers the Director of Primary Education to give any such instructions to respondent No. 4. At the relevant time, there was 300 private primary schools in Ahmedabad City and many of them have closed down. If the Government could be permitted to require Ahmedabad Municipal School Board to absorb the teachers of all such institutions, it would amount to the liability and burden of the private primary schools being shifted to the Municipal School Board and the teachers employed by such private institutions would become a liability on Ahmedabad Municipal School Board.

4. It is further stated that by Government Resolution dated 14.7.1983, the Government has cancelled all the Government Resolutions with respect to recruitment of teachers and, therefore, nothing was required to be done pursuant to the letter dated 24.9.1984 (Annexure "B") of the Government. As regards the example of Shri Chimanlal Vyas and Smt. Padmaben, it

is pointed out that they were appointed after following due procedure on the basis of priority and that too before July, 1983.

5. The learned AGP states that in absence of any affidavit in reply on behalf of respondent Nos. 1 and 2 (State of Gujarat and Director of Education) and for want of any instructions in the matter from the concerned respondents, she is not in a position to support the instructions contained in the letter dated 24.9.1984 (Annexure "B") from the Director of Primary Education to respondent No. 4 as to on what basis the said instructions were given.

6. In view of the aforesaid factual and legal position, there is no substance in this petition. The petition is, therefore, dismissed.

Rule is discharged with no order as to costs.

August 9, 1999 (M.S. Shah, J.)

sundar/-